

## **Title 8**

### **HEALTH AND SAFETY**

Chapters:

#### **8.04 *Unregistered Motor Vehicles***

#### **8.05 *Illicit Discharge*** Detection and Elimination

#### **8.08 Anti-Blight Property Registration and Remediation Program**

### **Chapter 8.04**

#### ***UNREGISTERED MOTOR VEHICLES***

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#### **8.04.010 Purpose.**

The town finds that unrestricted storage of *unregistered motor vehicles* and *motor vehicle parts* on properties within the town to have serious objectionable characteristics and a deleterious effect on adjacent neighbors. These characteristics and effects are likely to cause blighting of neighborhoods, attract vermin and rodents and become an unattractive nuisance. To protect the interest of the residents of the town and to promote health, safety, aesthetics, and general welfare, the town enacts this chapter to reasonably restrict the open or outside storage of *unregistered motor vehicles* and *motor vehicle parts*.

(LL No. 11, 2001 § 1)

#### **8.04.020 Definitions.**

For purposes of this chapter:

*Motor vehicle* means every *motor vehicle* operated or driven upon a public highway, which is propelled by any power other than muscular power, except: (a) electrically driven mobility assistance devices operated or driven by a person with a disability; (b) vehicles which run only upon rails or tracks; (c) snowmobiles as defined in Vehicle and Traffic Law; and (d) all-terrain vehicles as defined in Vehicle and Traffic Law. For the purposes of this chapter, the term *motor vehicle* shall exclude fire vehicles, police vehicles, ambulances, farm type tractors, all-terrain type vehicles used exclusively for agricultural purposes or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

*Unregistered, abandoned or junk motor vehicle* shall be a *motor vehicle* that:

1. Is not currently legally registered with any state or country;
2. Is left unattended:
  - a. With no number plates affixed thereto, for more than six hours on any highway, public place or private property within the town,

- b. For more than twenty-four (24) hours on any highway, public place or private property within the town, except a portion of the highway, public place, private drive on which *parking* is legally or usually permitted,
- c. For more than forty-eight (48) hours, after the *parking* of such *motor vehicle* shall have become illegal if left on a portion of the highway, public place or private *drive* on which *parking* is legally or usually permitted,
- d. For more than ninety-six (96) hours on property of another if left without permission of the *owner*, or
- e. Has no value or salvage value only, smashed and broken windows or *areas* of sharp and torn metal edges and points, and that cannot legally be operated on a public way.

*Unregistered, abandoned or junk motor vehicle parts* shall be:

- 1. Any parts from an unregistered, abandoned or *junk motor vehicle*; or
- 2. Any *motor vehicle parts* that are in disrepair, broken, or have *areas* of sharp and torn metal edges, and have no value or salvage value only.

(LL No. 11, 2001 § 2)

#### **8.04.030 Restrictions.**

No person shall keep or store an *unregistered, abandoned or junk motor vehicle* or *unregistered, abandoned or junk motor vehicle parts* in the open or outside of a *building* or *structure* on properties in the town.

(LL No. 11, 2001 § 3)

#### **8.04.040 Exceptions.**

The restriction of Section 8.04.030 of this chapter shall not apply when:

- A. The *owner* of the *unregistered, abandoned or junk motor vehicle* or the property *owner* obtains an *unregistered motor vehicle* permit pursuant to Section 8.04.050 of this chapter.
- B. Such unregistered, abandoned or *junk motor vehicle* or part is stored on a *lot* approved for a *vehicle repair, vehicle sales* or heavy equipment sales use.
- C. Such *unregistered, abandoned or junk motor vehicles* or *parts* are stored on properties that are *used* as junkyards or junk dealers possessing a current junk dealers *license* from the town pursuant to Section 8.04.060 of this chapter.
- D. Not more than two *unregistered, abandoned or junk motor vehicles* or *parts* are not stored in any required yard, and are completely covered with an opaque cover, or are vehicles used for auto racing and/or are registered at an auto raceway, track or speedway or are kept on a licensed trailer.

(LL No. 11, 2001 § 4)

#### **8.04.050 Unregistered *motor vehicle* permits.**

- A. An *application* for an unregistered *motor vehicle* permit shall include:
  - 1. The *unregistered motor vehicle owner's* name and address;
  - 2. The Vehicle Identification Number (VIN) for the unregistered *motor vehicle*;
  - 3. The property *owner's* name and address;

4. A written description of the location on the property where the *unregistered motor vehicle* is to be stored;
  5. An explanation of the purpose that the *unregistered motor vehicle* permit is necessary and if applicable an expected date for final disposition of the *unregistered motor vehicle*;
  6. The required permit *application* fee pursuant to Section 8.04.070 of this chapter.
- B. The issued *unregistered motor vehicle* permit shall be prominently displayed on or in the window on the vehicle for which the permit was issued.
- C. Failure to display any issued permit as specified above shall be a violation of this chapter.
- D. Each separate *unregistered motor vehicle* is required to have a separate *application* and permit.
- E. *Unregistered motor vehicle* permits are not transferable to another vehicle or to another property.
- F. *Unregistered motor vehicle* permits shall not be issued for vacant *lots*.
- G. No more than two *unregistered motor vehicle* permits shall be issued for any one lot at any one time.  
(LL No. 11, 2001 § 5)

#### **8.04.060 Junk dealer license.**

Junk dealer *licenses* shall be required and issued in accordance with General Municipal Law, Section 136 and shall:

- A. Be valid for one year;
  - B. Not be transferable or assignable;
  - C. Subject to the fees as established by the *town board* by resolution and reviewed annually at the *town board's* organizational meeting or at any other such time as deemed appropriate by the town.
  - D. Include valid evidence of compliance with any other state or local *agency's* licensing or other requirements prior to the issuance of such junk dealer *license*.
- (LL No. 11, 2001 § 6)

#### **8.04.070 Unregistered motor vehicle permit fee.**

*Unregistered motor vehicle* permit *application* fees shall be as established by the town board by resolution and reviewed annually at the *town board's* organizational meeting or at any other such time as deemed appropriate by the town.  
(LL No. 11, 2001 § 7)

#### **8.04.080 Orders and violations.**

The code enforcement office shall administer and enforce the provisions of this chapter. The code enforcement office is authorized to order in writing:

- A. That any condition found in violation of this chapter existing in, on or about any lot be corrected within a specified period of time;
- B. Orders to correct violations of this chapter shall be served in *person* upon the responsible party or agent or US mail sent to the address of such responsible party, *owner* or agent;
- C. When an address for a responsible party or agent has been set forth in any relevant *application* for a permit or any relevant certificate, that address is the one which shall be used for *service* of any orders served by US mail;

- D. A responsible party who fails to comply with any order issued by the code enforcement office the responsible party shall be subject to any and all penalties as provided by law.  
(LL No. 11, 2001 § 8)

## Chapter 8.05

### **ILLICIT DISCHARGE** DETECTION AND ELIMINATION

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- 8.05.210 Compatibility with other ordinance requirements.**
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#### **8.05.010 Title.**

This chapter shall be known as the *illicit discharge* detection and elimination law for the town of Big Flats, *New York*.  
(LL No. 10, 2007 (part))

#### **8.05.020 Purpose/intent.**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the town of Big Flats, New York through the regulation of *nonstormwater discharges* to the *municipal separate storm sewer system (MS4)* to the maximum extent *practicable* as required by federal and state law. This chapter establishes methods for controlling the introduction of *pollutants* into the *MS4* in order to comply with requirements of the SPDES general permit for *municipal separate storm sewer systems*. The objectives of this chapter are:

- A. To meet the requirements of the SPDES general permit for *stormwater* discharges from *MS4s*, Permit No. GP-02-02 or as amended or revised;
- B. To regulate the contribution of *pollutants* to the *MS4* since such systems are not designed to accept, process or discharge *nonstormwater* wastes;
- C. To prohibit *illicit connections*, activities and discharges to the *MS4*;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, *wastewater*, grease, oil, petroleum products, cleaning products, paint products, hazardous

waste, sediment and other *pollutants* into the *MS4*.  
(LL No. 10, 2007 (part))

#### **8.05.030 Statutory authority.**

In accordance with Section 10(1)(ii)(a)(11) of the Municipal Home Rule Law of the state of New York, the town of Big Flats has the authority to enact local laws for the protection and enhancement of its physical and visual environment as well as to promote the health, safety and general welfare of the town. The town of Big Flats may include in such local law provisions for the appointment of any municipal officer, *employee(s)* or independent *contractor* to effectuate, administer and enforce such local law.  
(LL No. 10, 2007 (part))

#### **8.05.040 Applicability.**

This chapter shall apply to all water and materials entering the designated *MS4* urbanized area generated on any developed and *undeveloped* lands unless explicitly exempted herein or by an authorized enforcement *agency*.  
(LL No. 10, 2007 (part))

#### **8.05.050 Definitions.**

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms will have meanings set forth below:

*303(d) list* means a list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and *industrial use*) are impaired by *pollutants*, prepared periodically by the *department* as required by Section 303(d) of the *Clean Water Act*. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

*Best management practices (BMPs)* means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of *pollutants* directly or indirectly to *stormwater*, receiving waters, or *stormwater* conveyance systems. *BMPs* also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Clean Water Act* means the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

*Construction activity* means activities requiring authorization under the SPDES permit for *stormwater* discharges from construction activity, GP-02-01, as amended or revised. These activities include construction *projects* resulting in land disturbance of one or more acres. Such activities include but are not limited to *clearing* and grubbing, *grading*, excavating, and demolition.

*Department* means the New York State Department of Environmental Conservation.

*Design professional* means a *New York State licensed professional engineer* or licensed architect.

*Hazardous materials* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illicit connections* means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the *MS4*, including but not limited to:

1. Any conveyances which allow any *nonstormwater discharge* including treated or untreated *sewage*, process *wastewater*, and wash water to enter the *MS4* and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement *agency*; or

2. Any drain or conveyance connected from a commercial or industrial land use to the *MS4* which has not been documented in plans, maps, or equivalent *records* and approved by an authorized enforcement *agency*.

*Illicit discharge* means any direct or indirect *nonstormwater discharge* to the *MS4*, except as exempted in Section 8.05.070(A)(1) of this chapter.

*Industrial activity* means activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

*MS4* means *municipal separate stormsewer system*.

*Municipal separate storm sewer system* means a conveyance or system of conveyances (including *roads* with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made *channels*, or storm drains):

1. Owned or operated by the town of Big Flats;
2. Designed or used for collecting or conveying *stormwater*;
3. Which is not a combined sewer; and
4. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

*Municipality* means the town of Big Flats, New York.

*Nonstormwater discharge* means any discharge to the *MS4* that is not composed entirely of *stormwater*.

*NYSDEC* means the New York State Department of Environmental Conservation.

*Outfall* means the terminus of a storm drain where the contents are released.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant* means dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated *sewage*, garbage, *sewage* sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

*Premises* means any *building*, *lot*, *parcel* of land, or portion of land whether improved or unimproved including adjacent sidewalks and *parking* strips.

*Sewage* means refuse liquids or waste matter.

*Special conditions* means:

1. Discharge Compliance with Water Quality Standards. The condition that applies where the town of Big Flats has been notified that the discharge of *stormwater* authorized under their *MS4* permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the town of Big Flats must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
2. 303(d) Listed Waters. The condition in the town of Big Flats' *MS4* permit that applies where the *MS4* discharges to a 303(d) listed water. Under this condition the *stormwater management* program must ensure no increase of the listed *pollutant of concern* to the 303(d) listed water.

3. *Total Maximum Daily Load (TMDL) Strategy.* The condition in the town of Big Flats' *MS4* permit where a *TMDL* including requirements for control of *stormwater* discharges has been approved by EPA for a water body or watershed into which the *MS4* discharges. If the discharge from the *MS4* did not meet the *TMDL stormwater* allocations prior to September 10, 2003, the town of Big Flats was required to modify its *stormwater management* program to ensure that reduction of the *pollutant of concern* specified in the *TMDL* is achieved.
4. The condition in the town of Big Flats' *MS4* permit that applies if a *TMDL* is approved in the future by EPA for any water body or watershed into which an *MS4* discharges. Under this condition the town of Big Flats must review the applicable *TMDL* to see if it includes requirements for control of *stormwater* discharges. If an *MS4* is not meeting the *TMDL stormwater* allocations, the town of Big Flats must, within six months of the *TMDL's* approval, modify its *stormwater management* program to ensure that reduction of the *pollutant of concern* specified in the *TMDL* is achieved.

*State pollutant discharge elimination system (SPDES) stormwater discharge permit* means a permit issued by the *NYSDEC* that authorizes the discharge of *pollutants* to waters of the state.

*Stormwater* means rainwater, surface runoff, snowmelt and drainage.

*Stormwater management officer (SMO)* means an *employee*, the municipal engineer or other public official(s) designated by the town of Big Flats to enforce this chapter. The *SMO* may also be designated by the town of Big Flats to accept and review *stormwater pollution prevention plans*, forward the plans to the applicable municipal board and inspect *stormwater management practices*. For purposes of this chapter, the *stormwater management officer* shall be the director of planning or the director of planning's designated code enforcement officer.

*TMDL* means *total maximum daily load*.

*Total maximum daily load* means the maximum amount of a *pollutant* to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that *pollutant*.

*Wastewater* means water that is not *stormwater*, is contaminated with *pollutants* and is or will be discarded.

*Watercourse* means any natural or man-made swale, stream, *channel*, drain, or culvert in which waters flow continuously or intermittently.

(LL No. 10, 2007 (part))

#### **8.05.060 Responsibility for administration.**

The *stormwater management officer(s) (SMO(s))* shall administer, implement, and enforce the provisions of this chapter. For purposes of this chapter, the *stormwater management officer* shall be the director of planning or the director of planning's designated code enforcement officer. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the *SMO* as may be authorized by the town of Big Flats.

(LL No. 10, 2007 (part))

#### **8.05.070 Discharge prohibitions.**

A. **Prohibition of Illegal Discharges.** No *person* shall discharge or cause to be discharged into the *MS4* any materials other than *stormwater* except as provided in subsection (A)(1) of this section. The commencement, conduct or continuance of any illegal discharge to the *MS4* is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this chapter, unless the *department* or the town of Big Flats has determined them to be substantial contributors of *pollutants*: water *line* flushing or other potable water sources, *landscape* irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water *infiltration* to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or *basement* sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not

containing *pollutants*. Such exempt discharges shall be made in accordance with an appropriate plan for reducing *pollutants*.

2. Discharges approved in writing by the *SMO* to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the *SMO* may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.
3. Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the *SMO* prior to the time of the test.
4. The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the *department*, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the *MS4*.

B. Prohibition of *Illicit Connections*.

1. The construction, *use*, maintenance or continued existence of *illicit connections* to the *MS4* is prohibited.
2. This prohibition expressly includes, without limitation, *illicit connections* made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A *person* is considered to be in violation of this chapter if the *person* connects a *line* conveying *sewage* to the town of Big Flats' *MS4*, or allows such a connection to continue.

(LL No. 10, 2007 (part))

**8.05.080 Prohibition against activities contaminating *stormwater*.**

A. Activities that are subject to the requirements of this section are those types of activities that:

1. Cause or contribute to a violation of the town of Big Flats' *MS4* SPDES permit.
2. Cause or contribute to the *municipality* being subject to the *special conditions* as defined in Section 8.05.050 (Definitions) of this chapter.

B. Upon notification to a *person* that he or she is engaged in activities that cause or contribute to violations of the town of Big Flats' *MS4* SPDES permit authorization, that *person* shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the town's *MS4* SPDES permit authorization.

(LL No. 10, 2007 (part))

**8.05.090 Suspension of access to *MS4*.**

A. Suspension Due to *Illicit Discharges* in Emergency Situations. The *SMO* may, without prior notice, suspend *MS4* discharge access to a *person* when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of *persons*, or to the *MS4*. The *SMO* shall notify the *person* of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the *SMO* may take such steps as deemed necessary to prevent or minimize damage to the *MS4* or to minimize danger to *persons*.

B. Suspension Due to the Detection of *Illicit Discharge*. Any *person* discharging to the *municipality's MS4* in violation of this chapter may have their *MS4* access terminated if such termination would abate or reduce an *illicit discharge*. The *SMO* will notify a violator in writing of the proposed termination of its *MS4* access and the reasons therefor. The violator may petition the *SMO* for a reconsideration and hearing. Access may be granted by the *SMO* if he/she finds that the *illicit discharge* has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the *SMO* determines in writing that the *illicit discharge*



has not ceased or is likely to recur. A *person* commits an offense if the *person* reinstates *MS4* access to *premises* terminated pursuant to this section, without the prior approval of the *SMO*.  
(LL No. 10, 2007 (part))

#### **8.05.100 Industrial or construction activity discharges.**

Any *person* subject to an industrial or *construction activity* SPDES *stormwater* discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a *form* acceptable to the town of Big Flats prior to the allowing of discharges to the *MS4*.  
(LL No. 10, 2007 (part))

#### **8.05.110 Access and monitoring of discharges.**

A. Applicability. This section applies to all facilities that the *SMO* must inspect to enforce any provision of this chapter, or whenever the authorized enforcement *agency* has cause to believe that there exists, or potentially exists, in or upon any *premises* any condition which constitutes a violation of this chapter.

B. Access to Facilities.

1. The *SMO* shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its *premises*, the discharger shall make the necessary arrangements to allow access to the *SMO*.
2. Facility operators shall allow the *SMO* ready access to all parts of the *premises* for the purposes of inspection, sampling, examination and copying of *records* as may be required to implement this chapter.
3. The town of Big Flats shall have the right to set up on any facility subject to this chapter such devices as are necessary in the opinion of the *SMO* to conduct monitoring and/or sampling of the facility's *stormwater* discharge.
4. The town of Big Flats has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure *stormwater* flow and quality shall be calibrated to ensure their accuracy.
5. Unreasonable delays in allowing the town of Big Flats access to a facility subject to this chapter is a violation of this chapter. A *person* who is the operator of a facility subject to this chapter commits an offense if the *person* denies the town of Big Flats reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
6. If the *SMO* has been refused access to any part of the *premises* from which *stormwater* is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the *SMO* may seek issuance of a search warrant from any court of competent jurisdiction.

(LL No. 10, 2007 (part))

#### **8.05.120 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

Where the *SMO* has identified *illicit discharges* as defined in Section 8.05.050 or activities contaminating *stormwater* as defined in Section 8.05.080, the town of Big Flats may require implementation of *best management practices* (*BMPs*) to control those *illicit discharges* and activities.

- A. The *owner* or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the *MS4* through the use of structural and nonstructural *BMPs*.

- B. Any *person* responsible for a property or premise, which is, or may be, the source of an *illicit discharge* as defined in Section 8.05.050 or an activity contaminating *stormwater* as defined in Section 8.05.080, may be required to implement, at said *person's* expense, additional structural and nonstructural *BMPs* to reduce or eliminate the source of *pollutant(s)* to the *MS4*.
- C. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of *stormwater* associated with *industrial activity*, to the extent *practicable*, shall be deemed compliance with the provisions of this section.

(LL No. 10, 2007 (part))

#### **8.05.130 Notification of spills.**

Notwithstanding other requirements of law, as soon as any *person* responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or *pollutants* discharging into the *MS4*, said *person* shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of *hazardous materials* said *person* shall immediately notify emergency response *agencies* of the occurrence via emergency dispatch *services*. Additionally, said *person* shall notify the town of Big Flats in *person* or by telephone or facsimile of said release of *hazardous materials* no later than the next business day. In the event of a release of *nonhazardous materials*, said *person* shall notify the town of Big Flats in *person* or by telephone or facsimile no later than the next business day. Notifications in *person* or by telephone shall be confirmed by written notice addressed and mailed to the town of Big Flats within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the *owner* or operator of such establishment shall also retain an on-site written *record* of the discharge and the actions taken to prevent its recurrence. Such *records* shall be retained for at least three years.

(LL No. 10, 2007 (part))

#### **8.05.140 Enforcement.**

A. Notice of Violation. When the town of Big Flats' *SMO* finds that a *person* has violated a prohibition or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible *person*. Such notice may require without limitation:

1. The elimination of *illicit connections* or discharges;
2. That violating discharges, practices, or operations shall cease and desist;
3. The abatement or remediation of *stormwater* pollution or contamination hazards and the restoration of any affected property;
4. The performance of monitoring, analyses, and reporting;
5. Payment of a fine; and
6. The implementation of source control or treatment *BMPs*. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental *agency* or a *contractor* and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any *person* who violates the provisions of this chapter shall be guilty of a violation punishable by a fine of not less than fifty dollars (\$50.00) but not exceeding three hundred fifty dollars (\$350.00) for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine of not less than seven hundred

dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.  
(LL No. 10, 2007 (part))

#### **8.05.150 Cost of abatement of the violation.**

Within thirty (30) days after abatement of the violation, the *owner* of the property will be notified of the cost of abatement, including administrative costs. The property *owner* may file a written protest objecting to the amount of the assessment within thirty (30) days of receiving notification of the cost of the abatement. If the amount due is not paid within a timely manner as determined by the decision of the *town board* or by the expiration of the time in which to file a protest, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any *person* violating any of the provisions of this article shall become liable to the town by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of four percent per annum shall be assessed on the balance beginning on the thirty-first day following completion of the abatement.  
(LL No. 10, 2007 (part))

#### **8.05.160 Alternative remedies.**

A. Where a *person* has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the town attorney and concurrence of the town's *stormwater management officer (SMO)*, where:

1. The violation was unintentional;
2. The violator has no history of pervious violations of this chapter;
3. Environmental damage was minimal;
4. Violator acted quickly to remedy violation;
5. Violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

1. Attendance at compliance workshops;
2. Storm drain stenciling or storm drain marking;
3. River, stream or creek cleanup activities.

(LL No. 10, 2007 (part))

#### **8.05.170 Injunctive relief.**

It is unlawful for any *person* to violate any provision or fail to comply with any of the requirements of this chapter. If a *person* has violated or continues to violate the provisions of this chapter, the *SMO* may petition for a preliminary or permanent injunction restraining the *person* from activities which would create further violations or compelling the *person* to perform abatement or remediation of the violation.  
(LL No. 10, 2007 (part))

#### **8.05.180 Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.  
(LL No. 10, 2007 (part))

#### **8.05.190 Remedies not exclusive.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement *agency* to seek cumulative remedies.  
(LL No. 10, 2007 (part))

#### **8.05.200 Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the *application* thereof to any *person*, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or *application* of this chapter.  
(LL No. 10, 2007 (part))

#### **8.05.210 Compatibility with other ordinance requirements.**

Approvals issued pursuant to this chapter do not relieve the *applicant* of the responsibility to secure required permits or approvals for activities regulated by any other applicable law, code, rule, act, or ordinance.  
(LL No. 10, 2007 (part))

#### **8.05.220 Adoption of chapter.**

This chapter shall be in full force and effect thirty (30) days after its final passage and adoption. All prior laws and parts of law in conflict with this chapter are repealed.  
(LL No. 10, 2007 (part))

### **Chapter 8.08**

#### **ANTI-BLIGHT PROPERTY REGISTRATION AND REMEDIATION PROGRAM**

Sections:

**8.08.010 Authority, findings, and purpose.**

**8.08.020 Definitions.**

**8.08.030 Anti-blight administrative procedures.**

**8.08.040 Identification and classification of *at-risk properties*.**

**8.08.050 Minimum required actions for classified properties.**

**8.08.060 Remedial measures--waiver.**

**8.08.070 Violations.**

**8.08.080 Waiver.**

**8.08.090 Assessment of expenses.**

**8.08.100 *Strategic development or property protection areas*.**

**8.08.110 Preferred vendors.**

**8.08.120 Administrative review.**

**8.08.130 Judicial review.**

**8.08.140 Notices.**

**8.08.150 Orders.**

#### **8.08.010 Authority, findings, and purpose.**

A. Authority. This chapter is adopted pursuant to Article 2, Section 10 of the Municipal Home Rule Law of the state of New York.

B. Findings, Purpose. It is found and declared there exists within the town a large number of real properties that are vacant and/or in a blighted condition and the existence of such vacant and/or blighted properties contributes to the decline of neighborhoods and business *development* within the town. It is further found the existence of vacant and/or blighted properties adversely affects the economic well being of the town and is inimical to the health, safety and welfare of the town's residents. It is further found that many of the vacant and/or blighted properties can be rehabilitated, reconstructed, demolished and/or reused so as to

provide decent, safe, sanitary and productive residential, industrial or commercial facilities and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and prevent the adverse conditions described above. As such, the purpose of this chapter is to establish a uniform and effective program to prevent, identify and remedy the existence of such vacant and/or blighted properties within the town.

(LL No. 5, 2007 § 1)

#### **8.08.020 Definitions.**

For the purposes of this chapter, the following words, terms and phrases shall have the following ascribed meanings, unless the context clearly indicates otherwise. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include both genders:

*At-risk properties* means all *parcels* of land located within the town that are either:

1. Identified within the town's assessor office as being in a "poor" or "fair" condition under the office of real property tax *services* real property data inventory software; or
2. Identified by the town's code enforcement office as being vacant.

*Property incentive programs* means each and every local, state or federal economic *development* program; property enhancement, improvement, revitalization, or protection program; industrial *development* agency programs; or similar *property incentive programs* or *services*. Examples of such programs are as follows:

1. The various tax exemption or credit legislative provisions and programs available under state and federal law such as New York State Real Property Tax Law Section 485-b;
2. New York State Empire Development Zones;
3. Federal Community *Development* Block Grant Programs;
4. Local and state revolving loan programs;
5. Office of small cities grant programs; and
6. Similar programs or *services* that may be available for use by the subject property.

*Redevelopment and/or repair plan* means a detailed plan or report prepared by or on behalf of the subject property *owner* setting forth the property *owner's* action plan to accomplish the redevelopment, renovation, repair, improvement, safe occupation and/or full utilization of the *at-risk property*. Said detailed plan shall contain both short and long-term goals with accompanying estimated dates of completion regarding the redevelopment, renovation, repair, improvement, safe occupation and/or full utilization of the property and, if applicable, a prevention plan to ensure the property does not become an *at-risk property* again in the future.

*Strategic development or property protection areas* means geographical areas of the town that possess one or more of the following characteristics and that are designated as such by resolution of the *town board*:

1. Areas in which the town's primary *retail* and commercial centers are located;
2. Areas of the town in which the traveling public primarily travels;
3. Areas of the town designated as qualifying for a specific area wide *property incentive program*; or
4. Areas of the town in which *at-risk properties* are predominately located in relationship to the other areas of the town.

Town means the town of Big Flats.

(LL No. 5, 2007 § 2)

#### **8.08.030 Anti-blight administrative procedures.**

A. Anti-Blight Commission. The town designates the *town board*, or, by resolution, the *town board* shall be authorized to designate any other town official, *employee*, board, commission, inter-municipal *agency* or like body or individual, to be the anti-blight commission of the town.

B. Membership. If the *town board* designates any other town official, *employee*, board, commission, inter-municipal *agency* or like body or individual to be the anti-blight commission of the town, the *town board* or such designated commission shall endeavor to appoint a broad spectrum of individuals, private and public, to serve on such commission. At a minimum, there shall be at least one private individual appointed to such commission that shall be representative of the private business sector of the community.

C. Responsibilities of the Anti-Blight Commission. The anti-blight commission shall be responsible for:

1. Creating, maintaining, and classifying a list of *at-risk properties* within the town based upon uniform criteria and evaluation standards developed and adopted by said commission;
2. Encouraging and coordinating interdepartmental and inter-municipal cooperation and action regarding inspections necessary to identify *at-risk properties* in the town and the enforcement of the provisions of this chapter;
3. Developing and implementing specific strategies to eliminate identified *at-risk properties* within the town.

D. Submit Annual Reports.

1. The anti-blight commission shall prepare, submit, present and file a written report to the town annually.

a. Such report shall include a list of all such identified *at-risk properties* within the town; and

b. The actions planned or taken to eliminate such blighted property conditions.

(LL No. 5, 2007 § 3)

#### **8.08.040 Identification and classification of *at-risk properties*.**

All *at-risk properties* shall annually be identified and listed by the anti-blight commission.

For all *at-risk properties* identified and listed by the anti-blight commission, the anti-blight commission shall annually evaluate and classify the properties into the following categories based upon uniform standards of review, established by resolution of the anti-blight commission, classifying the level of risk the property poses to the overall future welfare and economic well-being of the town and its residents:

A. High-risk properties;

B. Medium risk properties; or

C. Low risk properties.

(LL No. 5, 2007 § 4)

#### **8.08.050 Minimum required actions for classified properties.**

A. Low Risk Properties.

1. For all properties classified in the low risk category, the anti-blight commission shall, at a minimum, do the following in regards to such properties:

a. Annually compile a list of all such properties containing the following information:

- i. Name and address of the last known property *owner* as identified from the town's most recent tax assessment roll;
    - ii. A brief description of the condition of the property and any known unusual risk factors attributable to the property.
  - b. Annually send a letter to the last known *owner* of the property, advising the property *owner* of the following:
    - i. The property has been classified in the low risk category under the terms and conditions of this chapter;
    - ii. A summary of the *services* or incentive programs offered by the town or the anti-blight commission that may assist the property *owner* in the redevelopment or increased utilization of the property; and
    - iii. A summary of the operation, terms and conditions of this chapter, with a specific warning about the potential remedial measures available to the town if the property were to qualify for such treatment under this chapter.
- B. Medium Risk Properties.
  - 1. For all properties classified in the medium risk category, the anti-blight commission shall, at a minimum, do the following in regards to such properties:
    - a. Annually compile a list of all such properties setting forth the name and address of the last known property *owner* as identified from the town's most recent tax assessment roll;
    - b. Annually send a letter to the last known property *owner*, advising the property *owner* of the following:
      - i. The property has been classified in the medium risk category under the terms and conditions of this chapter;
      - ii. The obligation of the property *owner* to complete and return the property registration form containing such information as deemed relevant by the anti-blight commission, along with an annual registration fee that shall be set by the anti-blight commission.
        - (A) A blank copy of the subject property registration form shall be mailed with the above referenced notice letter;
      - iii. A summary of the *property incentive programs* that may be available to assist the property *owner* in the redevelopment or increased utilization of the identified medium-risk property.
        - (A) Such summary shall consist of the name, address, contact information and *services* offered by each and every local, state or federal *property incentive program*; and
      - iv. A summary of the preferred vendors, including such vendors name, address, contact information and preferred *services*, who may be able to assist the property *owner* in redeveloping or improving the condition of the subject property as determined under Section 8.08.090 of this chapter.
  - 2. For all properties classified in the medium risk category, the property *owner* of such medium risk property shall annually complete and return the property registration form provided to the property *owner* under this section and pay the annual registration fee associated therewith.
    - a. The annual registration fee shall be determined by resolution of the anti-blight commission.

- b. In addition, the anti-blight commission shall endeavor to keep such registration fee constant year to year, except for adjustments to be made periodically due to inflationary factors and increasing costs attributable to the enforcement of this chapter.

C. High-Risk Properties.

- 1. For all properties classified in the high-risk category, the anti-blight commission shall, at a minimum, do the following in regards to such properties:
  - a. Annually compile a list of all such properties setting forth the name and address of the last known property *owner* as identified from the town's most recent tax assessment roll;
  - b. Annually send a letter to the last known property *owner*, advising the property *owner* of the following:
    - i. The property has been classified in the high risk category under the terms and conditions of this chapter;
    - ii. The obligation of the property *owner* to complete and return the property registration form containing such information as deemed relevant by the anti-blight commission, along with an annual registration fee that shall be set by the anti-blight commission.
      - (A) A blank copy of the subject property registration form shall be mailed with the above referenced notice letter.
    - iii. A summary of the *property incentive programs* that may be available to assist the property *owner* in the redevelopment or increased utilization of the identified high-risk property.
      - (A) Such summary shall consist of the name, address, contact information and *services* offered of each and every such local, state or federal *property incentive program*.
    - iv. A summary of the preferred vendors, including such vendors name, address, contact information and preferred *services*, who may be able to assist the property *owner* in redeveloping or improving the condition of the subject *premises* as determined under Section 8.08.090 of this chapter.
  - c. Annually compile a listing of all high-risk properties identified under this section and forward the same to the town clerk for filing.
    - i. Such listing shall include the name and address of the property *owner* of such property and be published on the applicable town's website, if any, and in the official minutes of the applicable town's regularly scheduled *town board* meeting next occurring after receipt of such listing by the town clerk.
- 2. For all properties classified in the high risk category, the property *owner* of such high-risk property shall annually:
  - a. Complete and return the property registration form provided to the property *owner* under this section;
  - b. Pay the annual registration fee associated therewith.
    - i. The annual registration fee shall be determined by resolution of the anti-blight commission.
    - ii. In addition, due to the increase costs associated with monitoring such high-risk properties, the anti-blight commission shall establish such registration fee on a sliding scale, with the first year of such classification being set at the amount determined applicable to medium risk properties, and increasing annually thereafter to offset such increasing costs and inflationary factors;
  - c. Prepare and file a *redevelopment and/or repair plan* with the anti-blight commission regarding the



property.

- i. If the property *owner* has previously submitted a *redevelopment and/or repair plan* regarding the subject property, such property *owner* must submit reasonable proof that positive action in accordance with the *redevelopment and/or repair plan* has been taken in regard to such property each year the property is required to prepare and file such a *redevelopment and/or repair plan*.
- d. Submit reasonable documented proof demonstrating the property *owner* has formally investigated or applied for assistance from the available *property incentive programs* relative to redeveloping or improving the overall condition of the subject property.

(LL No. 5, 2007 § 5)

#### **8.08.060 Remedial measures--Waiver.**

A. The property and/or property *owner* shall be subject to the remedial measures set forth in subsections B through F of this section, if:

1. The property *owner* fails to comply with the requirements regarding high-risk properties under Section 8.08.050(C) of this chapter; or
2. The classifying point assessment for such high-risk property increases from the prior year as determined and reviewed by the anti-blight commission.

B. Repairs/Corrective Action.

1. For the first year an *at-risk property* is subject to the imposition of a remedial measure under this section, and for each and every year thereafter, the town may issue an order directing the property *owner* to repair or correct any of the following conditions of the property that may exist thereon:
  - a. Doors, windows or other openings into houses, apartments, *buildings* or commercial *structures* which are:
    - i. Broken or missing;
    - ii. Boarded-up with unpainted wood, metal or other material;
    - iii. Boarded-up, but some or all of the material used to board-up the windows or doors in question have been broken, pried off or apart, or otherwise vandalized.
  - b. Collapsing or missing walls, floors or roof;
  - c. Exterior walls which contain holes, breaks, loose or rotting materials, which are not properly surface-coated to prevent deterioration or the paint on which is significantly discolored or faded;
  - d. Foundation walls which contain open cracks and breaks;
  - e. Overhang extensions, including, but not limited to, canopies, marquees, *signs*, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust, tearing, fading or other decay;
  - f. Chimneys and similar appurtenances which are in a state of disrepair;
  - g. Screening which contains tears or ragged edges;
  - h. Vermin infestation;
  - i. Garbage, trash, debris, brush piles, or abandoned vehicles on the *premises* unless the *premises* is a junkyard licensed by the state of New York or town;

- j. Uncut grass, weeds or undergrowth at least one foot in length;
  - k. A *fence* with missing or rotted boards or with broken or ragged links or other material or which, if made from wood, is not properly surface-coated to prevent deterioration, significant discoloration or fading;
  - l. Bushes, trees, or brush allowed to grow anywhere in an area more than one foot laterally and less than seven feet vertically over a walkway, *driveway* or street;
  - m. Accumulation of stagnant or unsanitary water;
  - n. Dead trees deemed hazardous to the public or to adjacent property;
  - o. Display lights or exterior *signs* in a broken or disassembled state;
  - p. Exterior paint significantly chipped or faded;
  - q. Clothing left hanging from trees, shrubs or *fences* in the *front yard* of any residence;
  - r. Interior furniture, appliances left outside, exposed to the elements;
  - s. Accumulations of feces or putrefying substances;
  - t. Vehicles parked on *premises* unlawfully;
  - u. Graffiti on the property; or
  - v. Similar blighting conditions to those set forth in subsections (B)(1)(a) through (B)(1)(u) of this section:
    - i. A property *owner* served with an order under this paragraph shall comply with such order within thirty (30) days following the service of such order.
    - ii. If a property *owner* fails to comply with such order within the time frame set forth therein, the town may:
      - (A) Enter upon the property to repair or correct the conditions upon which the order was based.
        - (1) Any and all costs incurred by the town shall be recoverable against the property as provided under Section 8.08.090 of this chapter; or
      - (B) Issue an appearance ticket for such violation under Section 8.08.070 of this chapter.
- C. *At-Risk Property Impact Fees.*
- 1. If an *at-risk property* has been subject to the imposition of a remedial measure under this section for two or more years, the town may issue an order, and may issue such order each and every year thereafter, imposing the assessment of an *at-risk property* impact fee against the subject property.
  - 2. The *at-risk property* impact fee shall be established by resolution of the town annually and be levied and collected against the property as other similar town charges.
    - a. Such at risk property impact fees shall increase significantly on an annual basis.
    - b. In establishing such fee, the town shall secure a recommendation of the anti-blight commission, if different than the *town board*, of the amount to be so assessed.

- c. In determining the amount to be assessed, the following criteria shall be considered:
- i. The amount of administrative costs associated with implementing this chapter in regard to the subject property; plus
  - ii. Inflationary effects from year to year; plus
  - iii. The estimated negative impact costs to the community caused by the existence of the *at-risk property* in the town; plus
  - iv. An upward adjustment in the assessment if the property *owner* has demonstrated a lack of compliance with the terms and conditions of this chapter or has historically failed to make good faith efforts in improving or redeveloping the subject property.
    - (A) Such upward adjustment to be in an amount significant enough to serve as a warning to others against engaging in the dilatory or neglectful practice demonstrated by the subject property *owner* in warranting the imposition of this upward adjustment.

D. Demolition Surety.

1. If an *at-risk property* has been subject to the imposition of a remedial measure under this section for three or more years, the town may issue an order, and may issue such order each and every year thereafter, requiring the property *owner* to deposit or deliver with the town a surety in an amount sufficient to cover the costs of demolishing the at-risk property if the demolition remedial measure is imposed pursuant to subsection C of this section.
2. Such surety shall be in one of the following forms, subject to the review and final approval of the attorney for the town:
  - a. Cash;
  - b. Irrevocable letter of credit; or
  - c. Insurance bond.
3. Such demolition surety shall be released or returned to the property *owner* only upon the subject property's condition being improved to the point where the property no longer qualifies as an *at-risk property*.

E. Demolition.

1. If an *at-risk property* has been subject to the imposition of a remedial measure under this section for five or more years, the town may issue an order, and may issue such order each and every year thereafter, directing any and all *structures* on the subject property be demolished.
2. Such demolition order shall contain the following information:
  - a. The name and address of the property *owner* as it appears on the tax *records* for the town;
  - b. A description of the *structure* or *structures* on the subject property that need to be demolished;
  - c. The date by which the property *owner* must demolish such *structure*, said date being no longer than forty-five (45) days from the date of the demolition order; and
  - d. Shall advise the property *owner* of the administrative and judicial review rights the property *owner* is required or eligible to undertake in challenging the issuance of the demolition order as provided under Sections 8.08.120 and 8.08.130 of this chapter.

3. *Service and Posting.* The demolition order shall be served on the property *owner* of the subject property as shown by the *records* of the town receiver of taxes, *county* clerk's office, or *county* register:
  - a. Either personally; or
  - b. By U.S. registered mail, return receipt requested, if after a good faith effort to serve the property *owner* personally fails or if the property *owner* is not known or available for personal *service* in the *county* of Chemung; and
  - c. Shall be posted on the property that is the subject of said order.
4. *Town Removal.* In the event the property *owner* refuses, fails or neglects to comply with the demolition order issued under this paragraph, the town may enter upon such property and utilize town *employees* to complete such removal or contract for the removal of such property by a private entity.
5. *Recovery of Costs.* The town shall first recover the town's costs for completing such demolition by executing upon any demolition surety posted under subsection C of this section. For any sums due the town beyond the amount reimbursed by such demolition surety, the town shall recover such costs as provided under Section 8.08.090 of this chapter.

(LL No. 5, 2007 § 6)

#### **8.08.070 Violations.**

- A. In addition to any other remedial measure set forth herein, a property *owner* who fails to comply with the requirements for medium or high-risk properties set forth under Sections 8.08.050(B) and 8.08.050(C) of this chapter or any remedial measure imposed under this section, shall be guilty of a violation punishable by a fine up to two hundred fifty dollars (\$250.00) and/or imprisonment up to fifteen (15) days.
- B. Such violation shall be commenced in the local justice court in which the property is located in accordance with the relevant procedures for violation level offenses as set forth in the New York State Criminal Procedure Law.
- C. Further, the applicable *town code* enforcement officer shall be authorized to issue appearance tickets for such offending property *owners* to appear in said local justice court and in accordance with the applicable provisions of law.

(LL No. 5, 2007 § 7)

#### **8.08.080 Waiver.**

- A. The town shall have the authority to waive the imposition of any and all of the remedial measures set forth in this section, if the property *owner* can establish the following:
  1. Good cause why the property *owner* failed to comply with the necessary requirements under this chapter; and
  2. Can establish the continuing existence of the subject property in the same condition or state will not present a significant threat to the health, safety or welfare of the residents of the town affected thereby.

(LL No. 5, 2007 § 8)

#### **8.08.090 Assessment of expenses.**

- A. Any expenses incurred by the town for any action taken pursuant this chapter concerning remedial measures imposed thereunder, including, but not limited to, consultant fees, filing fees, hearing costs, attorney fees, collection costs, administration expense and any and all costs associated with the performance of such remedial measures, shall be the responsibility of the property *owner* of the property upon which the remedial measure were imposed.
- B. Should the property *owner* fail to pay the cost as outlined in this section within thirty (30) days upon being served with a statement of such costs due, all such costs and expenses shall be:

1. Assessed against the subject property on the subject properties next available tax assessment and collected thereby;  
or

2. Collected by a special proceeding commenced under General Municipal Law Section 78-b.  
(LL No. 5, 2007 § 9)

**8.08.100 Strategic development or property protection areas.**

A. On an annual basis, the anti-blight commission shall identify areas of the town or towns that are classified as *strategic development or property protection areas*.

B. *At-risk properties* located within a *strategic development or property protection area* shall automatically be classified as high-risk properties under Section 8.08.050 of this chapter.  
(LL No. 5, 2007 § 10)

**8.08.110 Preferred vendors.**

A. The town or anti-blight commission shall endeavor to annually secure preferred rates from qualified service providers for the following *services* that such qualified *service* providers agree to make available to the *owners* of the properties classified under this chapter:

1. Professionally licensed real estate *services*;
2. Professional engineering *services*;
3. Licensed asbestos contractors;
4. Qualified demolition *services*;
5. Qualified disposal *services*;
6. Qualified landscape/lawn maintenance *services*;
7. Qualified contracting *services*; and
8. Qualified security *services*.

B. The preferred service provider or providers shall be identified as the "preferred vendor" for the *services* related thereto and as referenced in Section 8.08.050 of this chapter.

C. Once such preferred vendors are determined, the vendor's name, address and rate shall be compiled in a summary format and maintained by the anti-blight commission.  
(LL No. 5, 2007 § 11)

**8.08.120 Administrative review.**

A. Any *person* aggrieved by a notice or order of the anti-blight commission in connection with any section of this chapter shall first apply to the anti-blight commission for reconsideration of such notice or order, provided such *application* is made within thirty (30) calendar days after the original notice or order was sent to the *owner* by certified mail or by way of personal delivery.

B. Upon receipt of the appeal, anti-blight commission shall meet within a reasonable time for the hearing of the appeal and shall advise the petitioner in writing of the time and place where the appeal will be heard.

C. Factors to be Considered by Board. In considering an appeal, the anti-blight commission should consider the

following factors:

1. Whether there is reasonable evidence to support the existence of a condition constituting the basis a notice or order issued under this article;
2. Whether an extension of time for compliance or a modification of the notice or order is appropriate based upon evidence presented relating to the following:
  - a. There are unique difficulties or hardships in carrying out the strict letter of the notice or order as it applies to the specific case, which outweigh the benefits enforcing such notice or order would provide to the impacted individuals by the property's condition and the general public as a whole.
  - b. Such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety and general welfare.
  - c. The extension will not serve the purpose of transferring responsibility for compliance to another party by, for example, sale or transfer of ownership.
  - d. The violations continuing during the period of the extension will not constitute an imminent danger to the health and safety of the neighborhood or general public.

D. **Action Following Appeal Hearing.** After the completion of the hearing as provided in subsection B of this section, the anti-blight commission shall sustain, modify or withdraw the notice or order upon which the appeal had been brought.

E. Such final decision of the anti-blight commission shall be filed in the office of the town clerk of the town in which the property is located and either mailed to the petitioner by way of certified U.S. mail or personally delivery.

F. If the anti-blight commission sustains or modifies a notice or order as provided hereunder, such action shall be deemed to be an order upon which the petitioner may appeal by way of judicial review as provided under Section 8.08.130 of this chapter.

(LL No. 5, 2007 § 12)

#### **8.08.130 Judicial review.**

Any *person* aggrieved by the final decision of the anti-blight commission by way of the administrative review required under Section 8.08.120 of this chapter, may obtain judicial review of such final decision in the New York State Supreme Court located in the *county* of Chemung as provided by the laws of the state of New York for commencing a Civil Practice Laws and Rules (CPLR) Article 78 proceeding against a municipal entity.

Such judicial review must be commenced within thirty (30) days of the filing of the final decision in the applicable town clerk's office.

(LL No. 5, 2007 § 13)

#### **8.08.140 Notices.**

Any notices, letters or correspondence issued under this chapter shall be delivered in person or mailed via regular first class U.S. mail unless otherwise provided under this section.

For all notices, letters or correspondences issued under this chapter involving any property identified as being a medium or high-risk property as determined hereunder, all such notices, letters, or correspondence shall be delivered personally or mailed via regular first class U.S. mail and also mailed via first class U.S. mail, certified, returned receipt requested.

(LL No. 5, 2007 § 14)

#### **8.08.150 Orders.**

All orders issued under this chapter shall be served as follows:

A. Personal hand delivery; or

B. If such personal hand delivery cannot be made after the completion of at least two good faith attempts to complete such personal hand delivery, such order shall be:

1. Mailed via regular first class U.S. mail; and

2. Mailed via first class U.S. mail, certified, returned receipt requested.

(LL No. 5, 2007 § 15)